



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

CITATION
ISSUED PURSUANT TO DECISION D.16-09-055

Gas Corporation (Operator) To Which Citation is issued: Pacific Gas and Electric (PG&E)

OFFICER OF THE RESPONDENT:

Mr. Jesus Soto, Vice President
Pacific Gas & Electric Company
6111 Bollinger Canyon Road, Room 4590-D
San Ramon, CA 94583

CITATION:

Operator is cited a financial penalty amount of \$100,000 for violating General Order (G.O.) 112-F. The California Public Utilities Commission's (CPUC) Safety and Enforcement Division (SED) found several violations as a result of its investigation of gas incident G20141024-01 that occurred on October 24, 2014 in Bakersfield.

VIOLATIONS:

1. Title 49 CFR § 192.605(a) states in part:

"General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response..."

Title 49 CFR § 192.614(a) states:

"Except as provided in paragraphs (d) and (e) of this section, each operator of a buried pipeline shall carry out in accordance with this section, a written program to prevent damage to that pipeline from excavation activities. For the purposes of this section, the term "excavation activities" includes excavation, blasting, boring, tunneling, backfilling, the removal of aboveground structures by either explosive or mechanical means, and other earthmoving operations."

Title 49 CFR § 192.614(c) states:

"The damage prevention program required by paragraph (a) of this section must, at a minimum:"

"(2) Provide for temporary markings of buried pipelines in the area of the excavation activity before, as far as practical, the activity begins."



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

California Government Code Section 4216.3(a)(1) states:

"Any operator of a subsurface installation who receives timely notification of any proposed excavation work in accordance with Section 4216.2 shall, within two working days of that notification, excluding weekends and holidays, or before the start of the excavation work, whichever is later, or at a later time mutually agreeable to the operator and the excavator, locate and field mark the approximate location and, if known, the number of subsurface installations that may be affected by the excavation to the extent and degree of accuracy that the information is available either in the records of the operator or as determined through the use of standard locating techniques other than excavating, otherwise advise the person who contacted the center of the location of the operator's subsurface installations that may be affected by the excavation, or advise the person that the operator does not operate any subsurface installations that would be affected by the proposed excavation."

SED found PG&E in violation of Title 49 CFR § 192.605(a) because it failed to carry out the requirements of its written program under Title 49 CFR § 192.614(a), § 192.614(c), and 4216.3(a)(1) to provide for temporary markings of buried pipelines in the area of the excavation activity in response to USA ticket No. 0422144.

PG&E alleged that the third party excavator verbally informed PG&E that the excavation site was smaller than what was stated on USA ticket No. 0422144. Testimony from the excavator refuted this claim. PG&E could not provide any documentation demonstrating this claim. PG&E could not provide the names of the workers with whom PG&E met, or their roles regarding the excavation or the USA ticket. In addition, PG&E incorrectly advised the person who contacted the center that the operator does not operate any subsurface installations that would be affected by the proposed excavation.

2. Title 49 CFR § 191.15(d) states:

"Where additional related information is obtained after a report is submitted under paragraph (a), (b) or (c) of this section, the operator must make a supplemental report as soon as practicable with a clear reference by date to the original report."

In PG&E's report to PHMSA¹, PG&E referred to USA ticket 0441996 and stated that the third party started excavation before the site was marked by PG&E. Although factually correct, it omits pertinent information regarding PG&E's response to USA ticket No. 0422144 which precedes the referenced USA ticket.

PG&E failed to submit a supplementary report to PHMSA with a copy to SED, including this additional relevant information of PG&E's failure to provide markings in response to preceding USA ticket 0422144.²

¹ PHMSA incident report OMB NO: 2137-0522, No. 20140126-16552

² At the time of the incident, the requirement for a supplemental report under 49 CFR 191.15(d) was required under 49 CFR 191.15(c). The code section was amended on Dec. 19, 2016.



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

Total Penalty Amount

As a result of the violations determined by SED and identified in this report, SED recommends a total fine of \$100,000. Decision 16-09-055 adopted an administrative limit of no more than \$8 million for each citation issued under the gas and electric safety citation programs.

In accordance with Decision 16-09-055, the total amount of this citation is \$100,000.

STATEMENT OF FACTS AND ENCLOSURES:

The following enclosures were used to establish the findings of fact:

- 1- *Enclosure 1 – PHMSA Incident Report Form 7100.2 dated November 21, 2014*
- 2- *Enclosure 2 – First Qtr 2015 - PGE NOPV summary letter dated May 27, 2015*
- 3- *Enclosure 3 – SED Incident Investigation Report dated July 11, 2016*
- 4- *Enclosure 4 – SED Closure Report dated October 21, 2017*
- 5- *Enclosure 5 – PG&E response to SED Closure Report dated December 11, 2017*
- 6- *Enclosure 6 – SED's Response to PGE's Response to Closure Letter dated December 27, 2017*
- 7- *Enclosure 7 – PG&E's Response to SED's Response dated January 26, 2018*

The violations in this citation were established based on the aforementioned seven enclosures, operator's records and/or substantiating documents obtained from other sources, or other reasons as stated in the attached report.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

SED CITATION ANALYSIS

Element	Staff Finding
Number of violation(s) and duration of violation(s)	<i>Two violations (each one a single incident): 1. One violation of Title 49 CFR § 192.605(a) 2. One violation of Title 49 CFR § 191.15(d)</i>
Severity or gravity of the offense	<i>PG&E's failure to properly respond to USA ticket No. 0422144 may have been a contributing factor to the incident that occurred on October 24, 2014 that resulted in property damage and gas release cost of approximately \$979,000. Fortunately, no injuries were reported.</i>
Conduct of the utility	<i>The utility is being cooperative.</i>
Self-reporting of the violation	<i>Not self-reported. Violations found as a result of SED's Investigation into Gas Incident G20141024-01.</i>
Financial resources of the utility	<i>4.3 Million customers, \$715 Million Revenue requirement</i>



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

The totality of the circumstances	<ol style="list-style-type: none">1. <i>PG&E failed to locate its subsurface installation and carry out the requirements of its written program under Title 49 CFR § 192.614(a), § 192.614(c), and California Government Code Section 4216.3(a)(1) for USA ticket No. 0422144.</i>2. <i>PG&E failed to submit a revised PHMSA F 7100.2 form to PHMSA with a copy to SED to include details on PG&E's failure to provide markings in response to USA ticket 0422144.</i>
The role of precedent	N/A
Resultant Citation Taking All Of These Factors Into Account	\$100,000



Public Utilities Commission

STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

RESPONSE:

Respondent is hereby called upon to provide a response to this Citation by: **5:00 PM on March 16, 2018**. By way of such response, Respondent, **within 30 calendar days**, must either pay the amount of the penalty set forth in this citation³, or appeal⁴ the citation. In addition Respondent must do one of the following:

- (1) **For violations constituting immediate safety hazards:** Respondent must immediately correct the immediate safety hazards.
- (2) **For violations that do not constitute immediate safety hazards:** Violations that do not constitute immediate safety hazards must be corrected within 30 days after the citation is served. If said violations that do not constitute immediate safety hazards cannot be corrected within 30 days, then the Respondent must submit a detailed Compliance Plan to the Director of SED within 30 days after the citation issues, unless the utility and the Director of SED, before the expiration of the 30 day period, agree in writing to another date, reflecting the soonest that the Respondent can correct the violations. The Compliance Plan must provide a detailed description of when the violation will be corrected, the methodology to be utilized, and a statement supported by an declaration from Respondent's Chief Executive Officer or appropriate designee (CEO Declaration) stating that in the Respondent's best judgment, the time that will be taken to correct the violation will not affect the safety or integrity of the operating system or endanger public safety.

Note: Respondent will forfeit the right to appeal the citation by failing to do one of these two options outlined in the Response above within 30 days. Payment of a citation or filing a Notice of Appeal does not excuse Respondent from curing the violation. The amount of the penalty may continue to accrue until a Notice of Appeal is filed. Penalties are stayed during the appeal process. A late payment will be subject to a penalty of 10% per year, compounded daily and to be assessed beginning the calendar day following the payment-due date. The Commission may take additional action to recover any unpaid fine and ensure compliance with applicable statutes and Commission orders.

³ For fines paid pursuant to Pub. Util. Code § 2107 and D.16-09-055 Respondent shall submit a check payable to California Public Utilities Commission using the attached Citation Payment Form. Upon payment, the fine will be deposited in the State Treasury to the credit of the General Fund and this citation will become final.

⁴ Respondent may Appeal this citation by completing and submitting a Notice of Appeal Form. Please see the attached document, "Directions For Submitting An Appeal To A Citation Issued Pursuant To Decision 16-09-055" for information on the appeals process and the attached "Notice of Appeal Of Citation Form."



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

NOTIFICATION TO PUBLIC AGENCIES:

As soon as is reasonable and necessary, and no later than 30 calendar days after service of the citation is effected, Respondent must provide a notification to the Chief Administrative Officer or similar local agency authority in the city and county where the violation occurred. Within 10 days of providing such notification, Respondent must serve an affidavit to the Director of SED, at the mail or e-mail address noted below, attesting that the local authorities have been notified; the date(s) for when notification was provided; and the name(s) and contact information for each local authority so notified.

The CPUC expects the Operator to take actions, as soon as feasible, to correct, mitigate, or otherwise make safe all violations noted on the Citation regardless of the Operator's intentions to accept or appeal the violation(s) noted in the Citation.

A handwritten signature in cursive script, appearing to read "Elizaveta Malashenko", is written over a horizontal line.

Elizaveta Malashenko
Director – Safety and Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
elizaveta.malashenko@cpuc.ca.gov



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

CITATION PAYMENT FORM

I (we) _____ hereby agree to comply with this citation dated _____, and have corrected/mitigated the violation(s) noted in the citation on _____ and no later than _____. all work to make permanent corrections to any mitigated, or otherwise remaining concerns related to the violation(s) will be completed as noted in the Compliance Plan we have submitted to the Director of SED and, herewith, pay a fine in the amount of \$ _____ as included in the citation. Also as payment for the citation, PG&E agrees to follow the remedies stated in Enclosures 3 and 6.

Signature of Gas Corporation's Treasurer,
Chief Financial Officer, or President/Chief Executive
Officer, or delegated Officer thereof

(Signature) (Date)

(Printed Name and Title)

Payment must be with a check made payable to the **California Public Utilities Commission** and sent to the below address. Please include the citation number on the memorandum line of the check to ensure your payment is properly applied.

California Public Utilities Commission
Attn: Fiscal Office
505 Van Ness Avenue
San Francisco, CA 94102-3298

NOTE: A copy of the completed Citation Payment Form must be sent to the Director of the Safety and Enforcement Division, via email or regular mail, to the address provided on the Citation.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

**DIRECTIONS FOR SUBMITTING AN APPEAL TO A CITATION
ISSUED PURSUANT TO DECISION 16-09-055**

Within 30 calendar days of the Respondent being served with a **CITATION ISSUED PURSUANT TO DECISION 16-09-055**, Respondent may appeal the citation. Beyond 30 calendar days of being served with the citation, Respondent is in default and, as a result, is considered as having forfeited rights to appeal the citation. The Respondent must still correct the violation(s) as instructed in the Response section of this citation.

To appeal the citation, Respondent/Appellant must file a Notice of Appeal (including a completed title page complying with Rule 1.6 of the Commission's Rules of Practice and Procedure, and attached Notice of Appeal Form) along with copies of any materials the Appellant wants to provide in support of its appeal with the Commission's Docket Office and must serve the Notice of Appeal, at a minimum, on

- 1) The Chief Administrative Law Judge (with an electronic copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov),
- 2) The Director of Safety and Enforcement Division
- 3) The Executive Director
- 4) General Counsel
- 5) The Director of the Office of Ratepayer Advocates

At the address listed below within 30 calendar days of the date on which the Appellant is served the Citation. The Appellant must file a proof of service to this effect at the same time the Appellant files the Notice of Appeal. The Notice of Appeal must at a minimum state: (a) the date of the citation that is appealed; and (b) the rationale for the appeal with specificity on all grounds for the appeal of the citation.

California Public Utilities Commission
505 Van Ness Ave
San Francisco, CA 94102
Attn: <Insert Title>

NOTE: Submission of a *Notice of Appeal Form* in no way diminishes Appellant's responsibility for correcting the violation described in the citation, or otherwise ensuring the safety of facilities or conditions that underlie the violations noted in the Citation.

Ex Parte Communications, as defined by Rule 8.1(c) of the Commission's Rules of Practice and Procedure, are prohibited from the date the citation is issued through the date a final order is issued on the citation appeal.



Public Utilities Commission STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

After receipt of the Appellant's *Notice of Appeal Form*, Appellant has a right to a hearing to be convened before an Administrative Law Judge. At least ten business days before the date of the hearing, the Appellant will be notified and provided with the location, date, and time for the hearing. At the hearing,

- (a) Appellant may be represented by an attorney or other representative, but any such representation shall be at the sole expense of the Appellant;
- (b) Appellant may request a transcript of the hearing, but must pay for the cost of the transcript in accordance with the Commission's usual procedures;
- (c) Appellant is entitled to the services of an interpreter at the Commission's expense upon written request to the Chief Administrative Law Judge not less than five business days prior to the date of the hearing;
- (d) Appellant is entitled to a copy of or electronic reference to Resolution ALJ-299 Establishing Pilot Program Citation Appeal and General Order 156 Appellate Rules (Citation Appellate Rules); and
- (e) Appellant may bring documents to offer in evidence (Rule 13.6 (Evidence) of the Commission's Rules of Practice and Procedure applies) and/or call witnesses to testify on Appellant's behalf. At the Commission's discretion, the hearing in regard to the Appellant's appeal can be held in a CPUC hearing room at either of the following locations:

San Francisco:
505 Van Ness Avenue
San Francisco, CA 94102

Los Angeles:
320 West 4th Street, Suite 500
Los Angeles, CA 90013

The hearing(s) held in regard to the Appellant's appeal will be adjudicated in conformance with all applicable Public Utilities Code requirements.



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

Notice of Appeal Form
Appeal from Citation Issued by Safety and Enforcement Division
Pursuant to Decision 16-09-055

Appellant:

Name
Vice President, Gas Operations
Gas Utility Name
Mailing Address
City, CA Zip

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007
Appeal Date: _____

"Appeal of _____ from _____ issued by Safety and
[Operator Name] [Citation Number]
Enforcement Division"

Statements supporting Appellant's Appeal of Citation (You may use additional pages if needed and/or attach copies of supporting materials along with this form).



Public Utilities Commission
STATE OF CALIFORNIA

Citation Date: February 16, 2018
Citation #: D.16-09-055 G.18-02-001
Operator ID#: 15007

Enclosures to Accompany Utility Appeal

Utility to add Enclosures as appropriate